



Air Pollution Control Board

San Diego County Air Pollution Control District

AGENDA ITEM

Governing Body

GREG COX
First District

DIANNE JACOB
Second District

PAM SLATER-PRICE
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

DATE: December 7, 2011

AP01

TO: Air Pollution Control Board

SUBJECT: NOTICED PUBLIC HEARING – ADOPTION OF AMENDMENTS TO
RULE 40 – PERMIT AND OTHER FEES (DISTRICT: All)

SUMMARY:

Overview

The Air Pollution Control Board is requested to adopt proposed amendments to Rule 40 (Permit and Other Fees), reflecting an adjustment in fees for clean air permits and related regulatory activities of the San Diego County Air Pollution Control District, effective January 1, 2012. State law authorizes air districts to adopt a schedule of fees to recover stationary source regulatory program costs. Rule 40 contains the Air Pollution Control District's schedule of stationary source permit and other fees. The amendments were developed using the approved Fee Review Group methodology pursuant to Board direction on June 17, 1998 (APCB #3).

The Air Pollution Control District has implemented cost controls to mitigate cost increases and resulting fee impacts to the extent feasible. Consequently, fees were not increased in fiscal years 2009-10 and 2010-11 despite new federal and state air quality mandates and increased program requirements. Nevertheless, even with ongoing cost containment efforts, a modest increase in staff labor rates on which the permit and other fees are based is currently needed to ensure adequate program funding.

The proposed amendments to Rule 40 would increase fees for permit applications, permit renewals, and emissions source testing by 4.3 percent on average (\$254,105 per fiscal year). No changes to the stationary source emission fee rate or the nonrefundable permit processing fees are proposed. Other proposed amendments address inactive permits, an additional source test category, and minor corrections and clarifications.

This request is reflected in the Fiscal Year 2011-12 Operational Plan, which includes a balance of funding from permit and other fees pursuant to Rule 40, Environmental Protection Agency and state grants, motor vehicle license fees, and miscellaneous revenues.

SUBJECT: ADOPTION OF AMENDMENTS TO RULE 40 – PERMIT AND OTHER FEES (DISTRICT: All)

Recommendation(s)

AIR POLLUTION CONTROL OFFICER

1. Find that it can be seen with certainty that there is no possibility that the adoption of the proposed amendments to Rule 40 may have a significant effect on the environment and the adoption of those proposed amendments is exempt from the provision of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15061(b)(3).
2. Waive Board Policy B-29; Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery because revenues from permit fees do not recover all stationary source regulatory program costs.
3. Adopt the Resolution entitled RESOLUTION AMENDING RULE 40 OF REGULATION III OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

Fiscal Impact

Funds for this request are included in the Fiscal Year 2011-12 Operational Plan for the Air Pollution Control District. If approved, this request will result in an increase of approximately \$127,053 in revenues for the remainder of Fiscal Year 2011-12, and approximately \$254,105 in Fiscal Year 2012-13. No additional staff years are required.

Business Impact Statement

Permit and renewal fees charged to Air Pollution Control District business customers will modestly increase to recover increased costs. Through outreach, local businesses are aware of the Air Pollution Control District's proposal and ongoing efforts to manage and contain costs while still meeting business demands and federal and state mandates. A public workshop was held on October 19, 2011. Workshop comments are listed in Attachment D.

Advisory Board Statement

The proposed amendments to Rule 40 were considered by the Air Pollution Control District Advisory Committee at its meeting on November 1, 2011. The five members unanimously recommended adoption of the proposal.

BACKGROUND:

The Air Pollution Control District (District) operates a mandated stationary source regulatory program to ensure local business and government facilities comply with local, state, and federal air pollution control requirements. The District evaluates applications for new and modified stationary sources of air pollutants, issues permits to operate, conducts compliance inspections, performs and witnesses air pollutant emissions testing, and provides outreach to assist businesses in their compliance efforts. Currently, there are 4,469 stationary sources in San Diego County maintaining 8,406 air permits.

SUBJECT: ADOPTION OF AMENDMENTS TO RULE 40 – PERMIT AND OTHER FEES (DISTRICT: All)

State law authorizes the District to adopt a schedule of fees to recover the full cost of District programs related to permitted stationary sources that are not otherwise funded, provided the aggregate fee increase does not exceed 15% per year. Program costs are funded in the Fiscal Years (FY) 2011-13 Operational Plan through permit and other fees pursuant to Rule 40, state and federal grants, and a portion of the vehicle registration fees received by the District. The proposed amendments to Rule 40, if approved, will increase total fee revenue by approximately 4.3 percent and, in combination with other revenue sources, provide for full cost recovery of District programs.

District fees were last revised July 23, 2008 (APCB #1). The current proposal adjusts labor rates on which fees are based, using a methodology recommended by a Fee Review Group (consisting of large and small businesses holding District permits) and adopted by the Air Pollution Control Board in 1998. The methodology is consistent with the requirements of state law and applies a uniform hourly rate for each job classification (e.g., inspector, engineer, and chemist) to each type of work being done.

Factors that are responsible for increased District labor costs since fiscal year 2008-09 include incremental step increases in salaries (based on length of service), negotiated salary and benefit increases, and increased costs of the County employee retirement system. Concurrently, the District has taken actions to contain stationary source program costs to the extent feasible. This includes realigning or merging job duties, streamlining processes, maintaining vacancies, and deferring equipment purchases. Additionally, the County has implemented pension cost controls by reducing retirement benefits for new employees and increasing retirement contributions for current employees. The District will continue to operate a comprehensive air pollution control program that is mandated under federal and state air quality laws in the most cost-effective manner possible.

Emissions Fees

There is no proposed change to the emissions fee rate for FY 2011-12. Emissions fees recover a portion of costs associated with small business assistance, air quality plan and rule development, emissions inventory, Hearing Board related activities, and citizen complaint investigations. These fees are assessed based on estimated annual emissions from each permitted facility.

Temporary Supplemental Fee to Replace Legacy Permit Processing Computer Software

The Database Replacement Supplement Fee (\$13/application or renewal, \$3/ton of emissions) is scheduled to sunset on June 30, 2012. No amendment to the fee or sunset date is proposed. The web-based Business Case Management System (BCMS) has significantly improved automation capabilities allowing the District to further streamline its processes and provide enhanced information services for customers.

Other Rule 40 Revisions

The District is proposing language changes to add the permit processing fee of \$25 for permits held in an inactive status; and to add one Time and Materials (T&M) fee for Schedule 92 – for

SUBJECT: ADOPTION OF AMENDMENTS TO RULE 40 – PERMIT AND OTHER FEES (DISTRICT: All)

source testing conducted at specified incinerators on an as-needed basis. The District is also proposing minor text changes for necessary corrections and clarification.

Environmental Statement

There is no possibility that the adoption of the proposed amendments to Rule 40 may have a significant effect on the environment and the adoption of the proposed amendments is exempt from the provision of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15061(b)(3).

Linkage to the County of San Diego Strategic Plan

Today's proposed actions support the Kids, Environment and Safe and Livable Communities Strategic Initiatives in the County of San Diego's 2011-2016 Strategic Plan by helping ensure compliance with federal and state air pollution control laws and local requirements that help to improve air quality for the residents of San Diego County.

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer



ROBERT J. KARD
Air Pollution Control Officer

ATTACHMENT(S)

- A. Fee Schedules
- B. Resolution Amending Rule 40 of the District's Rules and Regulations
- C. Change Copy of Rule 40
- D. Workshop Report

SUBJECT: ADOPTION OF AMENDMENTS TO RULE 40 – PERMIT AND OTHER FEES (DISTRICT: All)

AGENDA ITEM INFORMATION SHEET |

REQUIRES FOUR VOTES: ☐ Yes ☒ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

July 23, 2008 (APCB #1), Revisions to Rule 40 – Permit and Other Fees; July 25, 2007 (APCB #1), Revisions to Rule 40 – Permit and Other Fees; June 21, 2006 (APCB #1), Revisions to Rule 40 – Permit and Other Fees; June 22, 2005 (APCB #1), Revisions to Rule 40 – Permit and Other Fees; June 23, 2004 (APCB #1), Revisions to Rule 40 – Permit and Other Fees; June 17, 1998 (APCB #3), Adopt Amendments to Rule 40 – Permit and Other Fees.

BOARD POLICIES APPLICABLE:

Policy B-29, Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery.

BOARD POLICY STATEMENTS: N/A

MANDATORY COMPLIANCE: N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S): N/A

ORIGINATING DEPARTMENT: Air Pollution Control District

OTHER CONCURRENCE(S): N/A

CONTACT PERSON(S):

ROBERT J. KARD

Name

(858) 586-2700

Phone

(858) 586-2701

Fax

O-176

Mail Station

Robert.Kard@sdcounty.ca.gov

E-mail

SHARON JASSY

Name

(858) 586-2606

Phone

(858) 586-2701

Fax

O-176

Mail Station

Sharon.Jassy@sdcounty.ca.gov

E-mail